

**REMARKS****(Appln. No. 10/666,575-Amendment A)**

By the foregoing amendment, the specification and the Abstract have been amended and a new Substitute Drawing sheet containing Figs 4A and 4B to correct defects noted by the examiner. The application and drawings have been reviewed and other corrections noted by the undersigned have been made including changes to the Cross-reference to Related Applications, the Detailed Description and Figs. 6A and 6B. Appropriate substitute drawing sheets are submitted herewith. Acceptance of these changes and withdrawal of the objections to the Specification, Abstract and Drawings in light of these changes is respectfully solicited.

Claim 38 has been amended to correct a typographical error noted by the examiner, and withdrawal of the objection to this claim under 35 USC 112 is therefore respectfully requested.

Reconsideration of the objection to claims 37 and 54 under 35 USC 112 on the basis of the examiner being confused by the preambles of these claims as to whether the claims are apparatus claims or method claims is respectfully requested. There is no case law or rule that supports the contention that there is anything confusing about these claims. First the claims must be read as a whole and not judges based solely on the preamble. If the entire claim is read, even without any reference to the preamble, it is quite obvious that all of the elements of the claims are steps of a method and do not describe an apparatus. Secondly, the preamble ends with the words "*a method for tool-less mounting and removal of the ingredient hopper comprising the steps of:*" which also clearly and unequivocally indicated the following listed elements of the claims are method steps and not descriptions of any apparatus. Thirdly, the method is claimed not in the abstract or in a hypothetical or theoretical environment and is not intended to be performed by hand or with no structure, but rather is limited by specification of being practiced "*For use*" with, or "*in*", "*an electric food ingredient grinder having a housing within which are located an ingredient hopper body with a hopper outlet opening for passing ingredient to a grinding chamber*" which is a prior art structure of a food

*ingredient grinder*". The preamble provides antecedent basis for and provides and description of structure within which the method is practiced.

There is therefore no proper basis for the examiner to assert that a person of ordinary skill in the art would be confused and would not be able to tell whether the claims were claiming a method or an apparatus. The examiner has not cited any case law or any rule that suggests that a method should not be or cannot be claimed to be used only within a particular structural environment or that a preamble as used in these claims is inherently or otherwise confusing, and the applicant is not aware of any such rules or case law. Accordingly, in addition to there being no logical reason to suggest these claims are confusing, there are no legal reasons to support such an unsupported and unsupportable assertion. The objection to the claims 37 and 54 and claims 54-55 under 35 USC 112 , paragraph two, should be withdrawn.

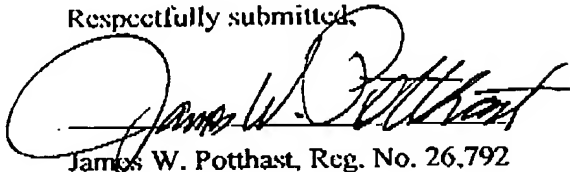
Reconsideration of the rejection of claims on the ground of nonstatutory obviousness-type double patenting over claims 1-9, 20-36 and 52-63 of U.S. Patent number 6,626,085 is respectfully requested. First, there is not even an assertion that the claims 1-4, 17-22, 36-40, 48-49 and 54-55 are obvious, and thus no basis whatsoever has been given for the rejection of these claims on the basis of obviousness-type double patenting. Claims cannot be rejected for no reason whatsoever, and thus the rejection of claims 1-4, 17-22, 36-40, 48-49 and 54-55 on these grounds must be withdrawn.

With respect to claims 5-16, 23-35, 41-47, 50-53 and 56-69, it is admitted that the claims of the '085 patent do not recite the specific drive mechanism to operate the specific closure member as recited in these application claims. Secondly, the assertion that it would be obvious to modify the device claimed in the patent by replacing the closure member and the drive mechanism with the specific drive mechanism to operate the specific closure member is without reference to any prior art that would suggest such changes as are claimed. The claim that the different mechanisms are obvious simply because they perform the same function is not a sufficient basis to conclude obviousness, since each of these different methods obviously have relative advantages and other characteristics and qualities that have been described and shown in details that are in no way contemplated or suggested by anything shown or claimed in the cited patent. The rejection of the claims 5-16, 23-35, 41-47, 50-53 and 56-69 therefore lacks any proper

basis and should be withdrawn. The examiner should consider that the cited patent is also the parent application in part of the present application.

There has been no substantive rejection of the claims based on the prior art record, and all technical objections have been overcome by amendment or shown to be without good basis. Favorable consideration and allowance of all claims at issue are therefore respectfully solicited.

Respectfully submitted,



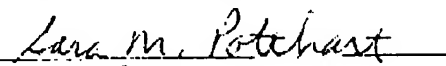
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#### **CERTIFICATE OF TRANSMISSION BY FACSIMILE (37CFR1.8)**

I hereby certify that this Amendment A(34-pages), Replacement Drawings (2-sheets), Petition for Extension of Time(1-page) and facsimile transmittal(1-page) are being facsimile transmitted to the United States Patent and Trademark Office, fax number 571-273-8300 this 22nd day of May, 2006.



Sara M. Potthast